



Statement on Tax Reform

**Submitted to the Senate Finance Committee
Working Groups on Individual Income Tax and
Business Income Tax**

*Partnership for Philanthropic Planning
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About PPP

The Partnership for Philanthropic Planning (“PPP”) is a public charity that supports the missions of thousands of charitable organizations nationwide and the philanthropic, financial, family, and personal goals of donors who sustain them. Through the practice of charitable planning, PPP members work to increase voluntary contributions to charitable organizations across the nonprofit sector, including education, healthcare, social services and poverty relief, religion, art, and the environment. PPP strives to engage all constituents in the charitable gift planning process: planned giving and major gifts professionals, nonprofit managers and trustees, financial and estate planners, trust managers and administrators. PPP represents over 100 chapters nationwide and nearly 8,000 individual gift planners.

Overview

PPP commends the Senate Finance Committee on its efforts to undertake comprehensive tax reform and make the tax code simpler, fairer, and more efficient. PPP also welcomes this opportunity to provide brief written comments to the committee as tax reform efforts continue to take shape in the 114th Congress.

PPP has limited its comments to three distinct areas of concern to the committee: (1) the charitable tax deduction; (2) the IRA Charitable Rollover; and (3) Donor Advised Funds.

Charitable Tax Deduction

Tax incentives for charitable giving, such as the income tax charitable contribution deduction, have been sending an essential message for 100 years about the core value our society places on voluntary giving and the important role of charitable organizations in meeting critical individual and community needs.

Though studies indicate that donors give for many reasons, incentives such as tax deductions are among them. While Americans do not make charitable gifts solely for tax reasons, tax incentives make more and larger gifts possible and more prevalent.

The true beneficiaries of the charitable donation are not only the generous Americans who make charitable gifts, but all citizens whose local communities both within our nation and throughout the world are made better through the work of our charitable sector. The income tax charitable contribution deduction is not a matter of providing a reward or something of value to the taxpayer; rather it is a matter of encouraging those with financial means to use their wealth to support charitable causes of their choosing and to help those in need. This voluntary redistribution of wealth is a cornerstone of America’s philanthropic heritage, which is respected across the world.

Recent history and the actions of the federal government reveal that tax incentives do, in fact, affect charitable giving. During times of crisis, such as the natural disasters like Hurricane Katrina, the 2008 Midwest flooding and the 2010 Haiti earthquake, Congress passed charitable giving incentives to make it easier for Americans to give donations and other support to charities serving individuals, families, and communities in need. Those incentives resulted in increased levels of resources to those charities caring for the victims.

PPP opposes any proposal that would either eliminate or limit the value of the charitable contribution deduction.

For example, the Administration's proposal to cap itemized deductions at 28 percent would have long-lasting negative consequences on charitable organizations that millions of Americans rely on for vital programs and services. It is estimated that the proposed 28 percent cap on itemized deductions could cost charities as much as \$7 billion per year in charitable contributions. In addition, Americans strongly support the income tax charitable contribution deduction. In an April 2011 Gallup poll, 71 percent opposed eliminating such deduction to lower the overall income tax rate, and 68 percent opposed eliminating such deduction to reduce the federal budget deficit. More people supported the charitable deduction than other popular deductions, like the deductions for home mortgage interest and state and local taxes.

Likewise, proposed changes to the charitable deduction included in former Ways & Means Committee Chairman Camp's Tax Reform Act of 2014, namely a proposal to impose a two percent of adjusted gross income ("AGI") floor for charitable gifts, would dramatically decrease giving, particularly to those charities that largely rely on small, private donations. As the committee is aware, one survey from the Congressional Budget Office indicated that the charitable sector could lose \$3 billion per year in charitable contributions if a two percent AGI floor were imposed.

In general, tax policy experts have noted that charitable giving is more sensitive to tax law changes compared to other deductible payments, as taxpayers generally cannot adjust their local taxes or mortgage payments. However, taxpayers can easily adjust their levels of charitable contributions in response to tax law changes.

The difficult economy has had a significant impact upon America's charitable community. According to the IRS, Americans claimed deductions for \$172.9 billion in charitable contributions in 2008, a 10.6 percent drop from 2007. More recent IRS estimates project that Americans only claimed \$148.6 billion in charitable contributions in 2009, an additional 14 percent drop. It is also worth noting that the IRS data indicates that taxpayers earning more than \$200,000 contributed \$49.6 billion to charities in 2009. When the economy stagnates, charitable organizations and their services are needed the most. Charities often bridge the gap by serving our communities and those in need when budgetary constraints hinder local, state and federal governments from providing similar services.

Lastly, wealthy Americans will not alone bear the brunt of any elimination or limitation of the income tax charitable contribution deduction. A reduction in charitable giving harms the charitable sector, which correspondingly hurts the people, typically the poorer populations, who rely upon the services charities provide.

IRA Charitable Rollover

PPP has long advocated in favor of public policy that encourages charitable giving, a position which is based upon the critical role of philanthropy in this country, as outlined above. In this spirit, ***PPP supports federal legislation that permits Americans to transfer money from their Individual Retirement Accounts (“IRAs”) directly to nonprofit organizations for charitable purposes, without suffering tax penalties.*** This legislation is commonly referred to as the IRA Charitable Rollover.

As the committee is aware, a limited version of the IRA Charitable Rollover was first enacted into law as part of the Pension Protection Act of 2006 (Public Law 109–280) in August 2006. This provision permitted IRA owners beginning at age 70½ to make outright charitable gifts of up to \$100,000 per year from their IRAs directly to eligible charities for calendar years 2006 and 2007. The donor did not have to report the distribution as taxable income and was not entitled to claim a charitable income tax deduction for the gift. Over the intervening years, the IRA Rollover provision has been allowed by Congress to lapse several times, only then to be retroactively extended, often with just weeks or days left in the calendar year for donors to act. Unfortunately, the IRA Rollover provision once again lapsed at the end of 2014, and the provision is not currently in effect.

PPP is pleased to report that the IRA Charitable Rollover, as enacted in 2006 throughout the end of 2014, has generated an enormous amount of *new* charitable giving. For example, PPP has received anecdotal reports of thousands of separate charitable gifts made pursuant to the provision, totaling hundreds of millions of dollars. In addition, reports to PPP show the most common IRA Rollover gift has been \$5,000, with the majority of gifts ranging between \$1,000 and \$10,000, which means the IRA Charitable Rollover is allowing older Americans, particularly those individuals who do not itemize their tax deductions and would not otherwise receive any tax benefit for their charitable contributions, to donate relatively modest amounts of money to thousands of nonprofits that work every day to enrich lives and strengthen communities across the country. Because the IRA Charitable Rollover has lapsed once again, however, America’s charities – and those they serve – are losing millions of dollars in new charitable gifts that are generated by this important tax provision. Accordingly, PPP supports extension of the IRA Charitable Rollover provision that expired at the end of 2014.

Moreover, PPP supports separate legislation which would *make permanent and expand* the IRA Charitable Rollover. This legislation, referred to as the Middle Class All-American Charitable IRA Rollover Act, would make the Rollover a permanent feature of the tax code and expand the provision to allow for life-income gifts. Specifically, the legislation

would expand the expired law to authorize tax-free IRA rollovers for gifts that benefit charities and provide taxable retirement income for the donor. The qualified charities would be the same donees authorized under the law enacted in 2006 and that expired in 2014 for direct transfers, and there would be a \$500,000 annual ceiling for life-income rollovers and donors must be age 59½ or older. Notably, the types of life-income plans authorized in this legislation assure that the annual taxable payments will be equal to or greater than what an individual would receive under the IRA required minimum distribution rule had he or she kept the funds in the IRA instead of rolling them over for a life-income plan, and because the IRA owner would be taxed on income received at ordinary income rates, there will be no revenue loss to the government. In short, this change in law would allow donors of average resources to make a charitable gift while still receiving some retirement income, all without the federal government foregoing any revenue.

Donor Advised Funds

PPP is also supportive of Donor Advised Funds (“DAFs”). As the committee is aware, 501(c)(3) public charities are permitted to establish DAFs, accounts to which donors may contribute and thereafter provide nonbinding advice or recommendations with regard to distributions from the account or the investment of assets in the account. Donors who make contributions to charities sponsoring such accounts generally may claim a charitable deduction at the time of the contribution.

DAFs provide a unique philanthropic platform to a broad group of potential philanthropists, acting to “democratize” or “pluralize” strategic giving throughout the country. DAFs work to recognize and reward many of the things that donors value most about giving: the ability to capitalize on a major liquidity event in their lives to give a much larger gift than they otherwise would; involving their families in charitable giving over time; and meeting the future, often unpredictable, needs of their community.

PPP opposes any mandatory payout requirements for DAFs.

For example, Chairman Camp’s Tax Reform Act of 2014 would require charities to distribute contributions to DAFs within five years of receipt to a public charity (not to other DAF accounts or supporting organizations). Failure by a sponsoring organization to make a distribution within five years would subject that organization to an excise tax equal to 20 percent of the undistributed funds. This tax would apply to each and every year there is a failure to make a distribution.

Any change in the laws surrounding DAFs would affect giving levels, either resulting in a reduction of overall charitable giving or a move toward donors starting other more cumbersome giving platforms, such as private foundations which have higher management costs and more stringent reporting and operating requirements while also having historically lower payout rates that data suggests hover closer to the statutory minimum of five percent.

On the other hand, DAFs already have an average annual payout of somewhere between 10-16 percent, according to several studies.

Such a proposed mandatory payout requirement would also lock donors into wherever the DAF was first established, thereby weakening the ability of the donor to ensure organizations are fulfilling their charitable missions. Finally, a payout requirement would also impose administrative burdens, especially for smaller organizations that will have more difficulty than larger organizations shouldering the expense of tracking each separate contribution to a DAF account.

Conclusion

Again, PPP applauds efforts made this year by the Senate Finance Committee to tackle the critical issue of tax reform and is appreciative of the opportunity to submit these brief comments for review. PPP looks forward to working with committee members and committee staff alike as this process unfolds in order to best preserve charitable giving in America for the years to come.

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